

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IN RE WASHINGTON MUTUAL
MORTGAGE BACKED SECURITIES
LITIGATION,

This Document Relates to: ALL CASES

Master Case No. C09-037 MJP

**DEFENDANTS' REPLY IN SUPPORT
OF THEIR MOTION TO EXCLUDE
THE PROFFERED EXPERT
TESTIMONY OF SCOTT D. HAKALA**

NOTE ON MOTION CALENDAR:
August 3, 2012

ORAL ARGUMENT REQUESTED

*Defendants' Reply in Support of Their Motion to
Exclude the Proffered Expert Testimony of Scott D.
Hakala (CV09-037 MJP)*

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

EXPLANATION OF CITATION FORMS..... iii

ARGUMENT.....1

I. Dr. Hakala’s Damages Method is Inconsistent and Cannot Be Replicated.....1

II. Dr. Hakala’s Use of Unreliable Price Data Over DCF is Unsupported in the Field.....2

III. Dr. Hakala’s Method of Equating Price and Value is Contrary to Law.6

CONCLUSION.....6

TABLE OF AUTHORITIES

Page(s)

Cases

Daubert v. Merrell Dow Pharm., Inc., 43 F.3d 1311 (9th Cir. 1995)2, 4

Elcock v. Kmart Corp., 233 F.3d 734 (3d Cir. 2000)2

Miller v. Thane Int’l, Inc., 615 F.3d 1095 (9th Cir. 2010)6

Akerman v. Oryx Communications, Inc., 810 F.2d 336 (2d Cir. 1987)6

EXPLANATION OF CITATION FORMS

The following citation forms are used in this memorandum:

- “3/11/11 Hakala Decl.” for references to the declaration of Scott Hakala, dated March 11, 2011, previously submitted as Ex. 117 to the April 13, 2012 Declaration of Jesse M. Weiss (Dkt. No. 384).
- “5/12/11 Hakala Dep.” for references to the transcript of the May 12, 2011, deposition of Dr. Scott D. Hakala, previously submitted as Ex. 77 to the May 11, 2012 Declaration of John T. Jasnoch (Dkt. No. 415).
- “3/30/12 James Rep.” for references to the expert rebuttal report of Defendants’ proposed expert, Christopher James, Ph.D., dated March 30, 2012, previously submitted as Ex. 5 to the July 2, 2012 Declaration of Brendon DeMay (Dkt. No. 466).
- “6/8/12 Hakala Dep.” for references to excerpts from the transcript of the June 8, 2012, deposition of Dr. Scott D. Hakala, previously submitted as Ex. 3 to the July 2, 2012 Declaration of Brendon DeMay (Dkt. No. 466).
- “Zissu Dep.” for references to an excerpt from the transcript of the June 12, 2012, deposition of Dr. Anne Zissu, previously submitted as Ex. 1 to the July 2, 2012 Declaration of Brendon DeMay (Dkt. No. 466).
- “6/21/12 James Dep.” for references to an excerpt from the transcript of the June 21, 2012, deposition of Dr. Christopher James, previously submitted as Ex. 4 to the July 2, 2012 Declaration of Brendon DeMay (Dkt. No. 466).
- “Hakala Bankr. Decl.” for references to the declaration of Scott D. Hakala, Ph.D., CFA, dated January 17, 2012, previously submitted as Ex. 6 to the July 2, 2012 Declaration of Brendon DeMay (Dkt. No. 466).
- “PCAOB AU Section __” for references to excerpts from the Public Company Accounting Oversight Board Auditing Standards, previously submitted as Ex. A to the July 30, 2012 Declaration of Scott D. Hakala (Dkt. No. 490-2).
- “FAS 157” for references to Financial Accounting Standards Board, Statement of Financial Accounting Standards No. 157, previously submitted as Ex. B to the July 30, 2012 Declaration of Scott D. Hakala (Dkt. No. 490-2).
- “USPAP” for references to excerpts from The Appraisal Foundation, Uniform Standards of Professional Appraisal Practice (2010-11 ed.), previously submitted as Ex. C to the July 30, 2012 Declaration of Scott D. Hakala (Dkt. No. 490-2).

- “Mot.” for references to Defendants’ Memorandum of Law in Support of Their Motion to Exclude the Proffered Expert Testimony of Scott D. Hakala, dated July 2, 2012.
- “Opp.” for references to Plaintiffs’ Opposition to Defendants’ Motion to Exclude the Proffered Expert Testimony of Scott D. Hakala, dated July 30, 2012.

Defendants WaMu Capital Corp. (“WCC”), WaMu Asset Acceptance Corp. (“WAAC”), David Beck, Diane Novak, Rolland Jurgens and Richard Careaga (collectively, “Defendants”) respectfully submit this reply in support of their motion to exclude the proffered expert testimony of Scott D. Hakala, Ph.D.

I. Dr. Hakala’s Damages Method is Inconsistent and Cannot Be Replicated.

Plaintiffs do not disagree that Dr. Hakala’s damages calculations must be consistent in order to be admissible. Yet, Plaintiffs do not even attempt to defend Dr. Hakala’s admissions that he violated his own hierarchy of rules to apply when choosing a price that reflects “value”. (See Mot. at 4–5, 8–9.) And Plaintiffs offer no argument that Dr. Hakala’s damages calculations here and in the Bankruptcy Court are actually consistent with one another. Nor could they, because a damages calculation of \$435 million is not consistent with a damages calculation for the same securities on the same valuation date of \$559 million.

Rather than attempt to reconcile Dr. Hakala’s shifting damages calculations, Plaintiffs argue only that the Court should overlook Dr. Hakala’s damages calculation in Bankruptcy Court because (a) Dr. Hakala’s bankruptcy calculation was not based on the “purchase and sale transaction data” that he used in preparing his damages opinion here; and (b) Dr. Hakala did not have sufficient time to conduct his bankruptcy calculation. (Opp. at 8.) Neither excuse is credible.

Plaintiffs’ first excuse is unsound because Dr. Hakala’s bankruptcy calculation explicitly states that he did take into account actual transaction data: “The securities prices in Exhibit B-Summary are derived primarily from FT Interactive matrix prices. Where FT Interactive did not have price quotes, price information was obtained from matrix prices from Thomson Financial and from observed actual sale prices reported subsequent to August 4, 2008.” (Hakala Bankr. Decl. ¶1 (emphasis added).) In both his bankruptcy calculation and his damages calculation here, Dr. Hakala had access to, and relied upon, the same crucial categories of data.

The difference is that here he abandoned the rules he used in Bankruptcy Court and arrived at a vastly higher damages number. Dr. Hakala has failed to apply a consistent methodology that yields consistent results, and his shifting conclusions demonstrate that his valuation method is ad hoc, biased and unreliable. “If [the expert’s] testing did not generate consistent results, [the expert’s] method would be exposed as unreliable because it is subjective and unreproducible.” Elcock v. Kmart Corp., 233 F.3d 734, 747 (3d Cir. 2000).

Plaintiffs’ second excuse is unsound because the suggestion that Dr. Hakala did not have enough time to conduct a thorough analysis before submitting his bankruptcy calculation is contradicted by the record. Dr. Hakala has been working on this case since, at the latest, March 2011. (See 3/11/11 Hakala Decl.) In May 2011, Dr. Hakala testified that he had already begun preparing his damages analysis using actual transaction data as of August 4, 2008. (See 5/12/11 Hakala Dep. 122:15–123:6 (“Q. Do you have any prices from August 2008? A. Yes. . . . [W]e had two price [quote] sources as well as transactions. We were able to look at transactions before and after dates and interpolate from transaction data as well.”).) Thus, any implication that Dr. Hakala did not have enough time to prepare the sworn declaration he submitted to the Bankruptcy Court in January 2012 is false—or is at least the self-induced effect of his own delay.

II. Dr. Hakala’s Use of Unreliable Price Data Over DCF is Unsupported in the Field.

Under Daubert, “experts must explain precisely how they went about reaching their conclusions and point to some objective source—a learned treatise, the policy statement of a professional association, a published article in a reputable scientific journal or the like—to show that they have followed the scientific method, as it is practiced by (at least) a recognized minority of scientists in their field.” Daubert v. Merrell Dow Pharm., Inc., 43 F.3d 1311, 1319 (9th Cir. 1995). Plaintiffs attempt to meet that standard by pointing to various accounting and appraisal texts that supposedly endorse Dr. Hakala’s method. Those texts, however, do not

support Dr. Hakala's method and in fact prove that Dr. Hakala's method is disfavored.

First, Plaintiffs argue that PCAOB and FASB accounting guidelines endorse using actual transaction prices and price quotations rather than a discounted cash flow analysis ("DCF") to value Certificates like those at issue here. But those sources specify that the preference for actual transaction prices and price quotations over a DCF presupposes that the asset at issue is traded in "an active market" such that price information is a reliable indicator of value. (See PCAOB AU Section 328.19, cited in Opp. at 10; see also PCAOB AU Section 328.10 ("For example, management may be able to refer to published price quotations in an active market to determine fair value for marketable securities held by the entity."); FAS 157-12, cited in Opp. at 5 (giving "the highest priority to quoted prices (unadjusted) in active markets for identical assets or liabilities").) Plaintiffs quote from the PCAOB standards on this issue but omit that crucial qualifier; the quotation reads in full:

"The measurement of fair value may be relatively simple for certain assets or liabilities, for example, **investments that are bought and sold in active markets that provide readily available and reliable information on the prices at which actual exchanges occur. For those items, the existence of published price quotations in an active market is the best evidence of fair value. The measurement of fair value for other assets or liabilities may be more complex.** A specific asset may not have an observable market price or may possess such characteristics that it becomes necessary for management to estimate its fair value based on the best information available in the circumstances (for example, a complex derivative financial instrument). **The estimation of fair value may be achieved through the use of a valuation method (for example, a model premised on discounting of estimated future cash flows).**" (See PCAOB AU Section 328.08, cited in Opp. at 4 (emphasis added).)

Plaintiffs' own sources confirm that the use of transaction data and price quotations to establish value requires a showing that the trading market is active; Dr. Hakala, however, admitted that the market for the securities at issue is not active and is not efficient. He specifically stated that the market does not meet the court-approved Cammer test for efficiency and that trading in the market is infrequent:

*Defendants' Reply in Support of Their Motion to
Exclude the Proffered Expert Testimony of Scott D.
Hakala (CV09-037 MJP)*

3

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

“Generally the Cammer factors were not satisfied in the sense that the courts would require. Yes, I did look at that issue. There are some Cammer factors which might be met or partially met, but, in general, **the trades were not frequent enough** and the price reactions were not immediate enough to meet the Cammer factors.” (6/8/12 Hakala Dep. 81:10–16 (emphasis added).)

There is no dispute that the Certificates at issue were not actively traded. (See id.; 3/30/12 James Rep. ¶22 (“available evidence shows that the Securities were extremely thinly traded”; “there was no Security-level analyst coverage”; “the Securities were not traded on an exchange and investors had no assurance of any secondary market”; “market participants had no readily available source of transactions data”); 6/21/12 James Dep. 16:6–17:12.) Accordingly, the parties’ expert financial economists agree that, according to the texts Plaintiffs cite, the precondition for relying on price data is not met. Plaintiffs have not met the requirement that Dr. Hakala’s method is accepted or even practiced in the industry. See Daubert, 43 F.3d at 1319.

Similarly, the texts upon which Plaintiffs rely also state that actual transaction prices may be used as true value only if they represent trades “between willing parties, that is, other than in a forced or liquidation sale” (see PCAOB AU Section 328.03 (quoting FAS 7)), but Dr. Hakala does not describe any analysis that he conducted to determine whether a particular transaction reflects a distressed price in a liquidation sale.¹ This failure to account for—or even investigate—another precondition for relying on transaction prices renders his methods unreliable according to Plaintiffs’ own authorities.

As for Dr. Hakala’s lament that a DCF is “too assumptive” (Opp. at 9 (quoting 6/8/12 Hakala Dep. 44:20)), Plaintiffs’ own sources again demonstrate that excuse is without merit. PCAOB standards acknowledge that a DCF requires making assumptions about future

¹ For example, Dr. Hakala conducted no analysis to determine whether his selected price of 45.00 for AR7-2A was the result of a liquidation sale even though it is nearly 40% lower than a transaction price six weeks earlier, 20% below a transaction price three weeks later and 20% below price quotations 2–3 weeks before and after. The outlier price of 45.00 should have been analyzed to determine whether it was artificially low due to a liquidation, but Dr. Hakala failed to conduct that analysis as required by the FASB standards that Plaintiffs cite as authoritative.

1 conditions, and the PCAOB standards provide guidance on which data and information should be
 2 considered in developing those assumptions. (See PCAOB AU Section 328.05–.06, 328.26–39.)
 3 Dr. Hakala has not substantiated his claim that DCF is too difficult or that it is not possible to
 4 find contemporaneous information that would allow one to estimate what market participants
 5 were projecting at the time. As noted above, valuation standards explicitly endorse DCF for
 6 financial instruments that, like the Certificates here, are not actively traded. In other words,
 7 “making assumptions” is what financial economists like Dr. Hakala are paid to do.²

8 Plaintiffs’ sources further demonstrate that Dr. Hakala’s practice of using
 9 transaction prices that post-date August 4, 2008, is unreliable. The PCAOB guidelines make
 10 clear that a valuation will rely on information as of the valuation date, and post-dated
 11 information may be used during a subsequent audit as a type of “sanity check” on the original
 12 valuation, not as the valuation itself. (See PCAOB AU Section 328.41; Zissu Dep. 105:18–106:8
 13 (agreeing that it is “basic finance” that a valuation as of a certain date “is based on the
 14 information that you have available at that time”).) By contrast, Dr. Hakala used transaction
 15 prices from weeks after August 4, 2008, as a substitute for value as of August 4. And although
 16 “the Appraisal Foundation” requires the appraiser to “determine a logical cutoff” for using post-
 17 hoc information (USPAP at Statement 3), Dr. Hakala never applied such a cutoff; for example,
 18 for AR7-2A, he deemed a price as of September 8 to be too late, yet for AR17-1A, he used a
 19 price as of September 26 (see 3/30/12 James Rep. Ex. 5).

20 Lastly, Plaintiffs argue that requiring Dr. Hakala to conduct a DCF places the
 21

22 ² As Plaintiffs’ expert, Prof. Zissu, testified, a DCF is not merely “the appropriate way to value an RMBS
 23 investment . . . it’s the only way.” (Zissu Dep. 104:7–12.) Plaintiffs assert that she was referring only to the method
 24 of pricing an initial offering before any transactions have occurred. (Opp. at 10.) That is not what she said. Prof.
 25 Zissu testified that as time goes by after conducting a DCF on a MBS, investors will revise their DCF calculations to
 account for new information, not that investors will abandon the DCF method: “Well, the price of a security changes
 over time for different reasons. One is, you don’t -- you’re not dealing with the same projected cash flows. The other
 one -- well -- so, basically that’s what it is. . . . If I am pricing a security [on] October 31st, 2000, that’s based on the
 projected cash flows from that point on until maturity. If then I look at that same security at December 31st, 2000,
 the price is going to be different.” (Zissu Dep. 105:5–23.)

burden on Plaintiffs to prove loss causation. (Opp. at 9–10.) That argument is wrong, and Plaintiffs cite no authority to support it. Nothing about a DCF requires Dr. Hakala “to prove up the credit losses attributable to Defendants’ poor underwriting”. (*Id.* at 10.) A DCF requires only an estimation of future profits and losses discounted to the valuation date; it does not require “proof” of the causes of those profits and losses.

III. Dr. Hakala’s Method of Equating Price and Value is Contrary to Law.

Plaintiffs argue that prices can be used as value even in an inefficient market. (*Id.* at 6–8.) That argument, however, relies on a misreading of Miller v. Thane International, Inc., 615 F.3d 1095 (9th Cir. 2010), and that case is distinguishable.³ Thane does not stand for the broad proposition that price automatically equals value even if the Cammer efficiency factors are not met. Rather, Thane held that the failure to show an “immediate [price] response” (a characteristic of Cammer-efficient markets) was irrelevant because it did not affect the economic analysis that was in question. *Id.* at 1103. Here, by contrast, the “immediate response” and “trading volume” Cammer factors, among others, are critical—the Certificates often were not traded for weeks or months, yet Dr. Hakala attempts to use prices to divine value as of a specific date during those long stretches.⁴ Under the circumstances, there is no economic or legal basis to conclude that prices equal value for the purposes of Section 11(e).

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court exclude the proffered expert testimony of Dr. Scott D. Hakala.

³ Plaintiffs also misread Akerman v. Oryx Communications, Inc., 810 F.2d 336 (2d Cir. 1987). The court there did not hold that market prices can be reliable indicators of value when markets are inefficient. In that case, there was no evidence—much less agreement by the parties’ expert economists—that the market was inefficient, and the court discussed “thin market[s]” only to explain the “internal inconsistency” of the plaintiff’s assertion that the market was inefficient, which directly contradicted the other statistical evidence that the plaintiff had introduced. *Id.* at 343.

⁴ Accordingly, Dr. Hakala’s assertion that the market is “informationally efficient” is beside the point.

1 Dated this the 3rd day of August, 2012.

2 **HILLIS CLARK MARTIN & PETERSON, P.S.**

3 By: /s/ Louis D. Peterson

4 Louis D. Peterson, WSBA #5776

5 Brian C. Free, WSBA #35788

6 1221 Second Avenue, Suite 500

7 Seattle, WA 98101-2925

8 Telephone: (206) 623-1745

9 Facsimile: (206) 623-7789

10 Email: ldp@hcmp.com

11 bcf@hcmp.com

12 **BINGHAM MCCUTCHEN LLP**

13 By: /s/ John D. Pernick

14 David M. Balabanian (admitted *pro hac vice*)

15 John D. Pernick (admitted *pro hac vice*)

16 Frank Busch (admitted *pro hac vice*)

17 Three Embarcadero Center

18 San Francisco, CA 94111-4067

19 Telephone: (415) 393-2000

20 Facsimile: (415) 393-2286

21 Email: david.balabanian@bingham.com

22 john.pernick@bingham.com

23 frank.busch@bingham.com

24 *Attorneys for Defendants WaMu Asset Acceptance*
25 *Corp., WaMu Capital Corp., David Beck, Richard*
Careaga, Rolland Jurgens, and Diane Novak

Defendants' Reply in Support of Their Motion to
Exclude the Proffered Expert Testimony of Scott D.
Hakala (CV09-037 MJP)

7

HILLIS CLARK MARTIN & PETERSON P.S.

1221 Second Avenue, Suite 500

Seattle, Washington 98101-2925

Telephone: (206) 623-1745

Facsimile: (206) 623-7789

CRAVATH, SWAINE & MOORE LLP

By: /s/ Michael A. Paskin

Evan R. Chesler (admitted *pro hac vice*)

Daniel Slifkin (admitted *pro hac vice*)

Michael A. Paskin (admitted *pro hac vice*)

Wes Earnhardt (admitted *pro hac vice*)

Cravath, Swaine & Moore LLP

Worldwide Plaza

825 8th Avenue

New York, NY 10019

Tel: (212) 474-1000

Fax: (212) 474-3700

Email: echesler@cravath.com;

dslifkin@cravath.com;

mpaskin@cravath.com;

wearnhardt@cravath.com

*Attorneys for Defendants WaMu Asset Acceptance
Corp. and WaMu Capital Corp.*

*Defendants' Reply in Support of Their Motion to
Exclude the Proffered Expert Testimony of Scott D.
Hakala (CV09-037 MJP)*

8

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Adam Zurofsky azurofsky@cahill.com
Amanda F. Lawrence - alawrence@scott-scott.com
Barry Robert Ostrager bostrager@stblaw.com, managingclerk@stblaw.com
Beth A. Kaswan - bkaswan@scott-scott.com
Bradley T. Meissner bradley.meissner@dlapiper.com
Brian O. O'Mara bo'mara@rgrdlaw.com, e_file_sd@rgrdlaw.com
Christopher E Lometti clometti@cohenmilstein.com
Daniel B Rehns drehns@cohenmilstein.com, efilings@cohenmilstein.com
Darren J Robbins e_file_sd@csgrr.com
David Daniel Hoff dhoff@tousley.com, efile@tousley.com
David R. Scott - drscott@scott-scott.com
Douglas C McDermott doug@mcdermottnewman.com, eric@mcdermottnewman.com
Floyd Abrams fabrams@cahill.com
Gavin Williams Skok gskok@riddellwilliams.com, jsherred@riddellwilliams.com,
lmoore@riddellwilliams.com
Geoffrey M Johnson gjohnson@scott-scott.com, efile@scott-scott.com
Hal D Cunningham hcunningham@scott-scott.com, efile@scott-scott.com,
halcunningham@gmail.com
Hector J. Valdes - hvaldes@cravath.com
Hollis Lee Salzman (Terminated) hsalzman@labaton.com,
ElectronicCaseFiling@labaton.com
James J. Coster jcoster@ssbb.com, jregan@ssbb.com, managingclerk@ssbb.com
Janissa Ann Strabuk jstrabuk@tousley.com, lrolling@tousley.com,
wcruz@tousley.com
Jason T Jasnoch jjasnoch@scott-scott.com, efile@scott-scott.com
Joel P Laitman jlaitman@cohenmilstein.com
John D Lowery jlowery@riddellwilliams.com, dhammonds@riddellwilliams.com
Jonathan Gardner jgardner@labaton.com
Joseph P Guglielmo jguglielmo@scott-scott.com, efile@scott-scott.com

Joseph A. Fonti (Terminated) jfonti@labaton.com, ElectronicCaseFiling@labaton.com
 Joshua M. Rubins jrubins@ssbb.com, jregan@ssbb.com, managingclerk@ssbb.com
 Joshua S. Devore jdevore@cohenmilstein.com, efilings@cohenmilstein.com
 Julie Goldsmith Reiser jreiser@cohenmilstein.com
 Julie Hwang (Terminated) jhwang@labaton.com, ElectronicCaseFiling@labaton.com
 Kenneth J Pfaehler kenneth.pfaehler@snrdenton.com, nicole.reeber@snrdenton.com
 Kenneth M Rehns krehns@cohenmilstein.com
 Kerry F Cunningham kerry.cunningham@dlapiper.com
 Kevin P Chavous kchavous@sonnenschein.com
 Kim D Stephens kstephens@tousley.com, cbonifaci@tousley.com,
 lrolling@tousley.com, wcruz@tousley.com
 Larry Steven Gangnes gangnesl@lanepowell.com, docketing-sea@lanepowell.com,
 donnellyjoss@lanepowell.com, sebringl@lanepowell.com
 Leslie D Davis ldavis@sonnenschein.com
 Mary Kay Vyskocil mvyskocil@stblaw.com
 Michael H. Barr mbarr@sonnenschein.com
 Nancy A Pacharzina (Terminated) npacharzina@tousley.com, mhottman@tousley.com
 Paul Scarlato pscarlato@labaton.com, ElectronicCaseFiling@labaton.com
 Paul Joseph Kundtz pkundtz@riddellwilliams.com, mbergquam@riddellwilliams.com,
 mdowns@riddellwilliams.com
 Richard A Speirs rspeirs@cohenmilstein.com
 Richard F Hans richard.hans@dlapiper.com, dorinda.castro@dlapiper.com
 Robert D Stewart stewart@kiplinglawgroup.com
 Rogelio Omar Riojas omar.riojas@dlapiper.com, karen.hansen@dlapiper.com,
 nina.marie@dlapiper.com
 Ryan Wagenleitner - rwagenleitner@scott-scott.com
 S Douglas Bunch dbunch@cohenmilstein.com
 Serena Richardson (Terminated) srichardson@labaton.com,
 ElectronicCaseFiling@labaton.com
 Stellman Keehnel stellman.keehnel@dlapiper.com, patsy.howson@dlapiper.com
 Stephen M. Rummage steverummage@dwt.com, jeannecadley@dwt.com,
 seadocket@dwt.com
 Steve W. Berman steve@hbsslaw.com, heatherw@hbsslaw.com, robert@hbsslaw.com
 Steven J Toll stroll@cohenmilstein.com, efilings@cohenmilstein.com

1 Steven P Caplow stevenaplow@dwt.com, jasonSchattenkerk@dwt.com,
2 patrickwatts@dwt.com, seadocket@dwt.com, sheilarowden@dwt.com

3 Steven W Fogg sfogg@corrchronin.com, hpowell@corrchronin.com,
4 reception@corrchronin.com

5 Tammy Roy troy@cahill.com

6 Timothy Michael Moran moran@kiplinglawgroup.com, cannon@kiplinglawgroup.com

7 Walter W. Noss wnooss@scott-scott.com, efile@scott-scott.com

8 DATED this 3rd day of August, 2012 at Seattle, Washington.

9 By s/ Louis D. Peterson

10 Louis D. Peterson, WSBA #5776

11 1221 Second Avenue, Suite 500

12 Seattle WA 98101-2925

13 Telephone: (206) 623-1745

14 Facsimile: (206) 623-7789

15 Email: ldp@hcmp.com